

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED
July 22, 2011

No. 08-50554
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

v.

ODDIS EUGENE PEOPLES,

Defendant–Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:92-CR-64

Before WIENER, PRADO, and OWEN, Circuit Judges.

PER CURIAM:*

Oddis Eugene Peoples, federal prisoner #60163-080, has applied for leave to proceed in forma pauperis (IFP) in this appeal from the district court's order granting his motion for a reduction of his sentence. The district court ordered that the sentence be reduced to the statutory minimum sentence of 240 months of imprisonment pursuant to recent amendments to the penalties applicable to cocaine base offenses. Peoples cannot show that there is a non-frivolous issue that the district court abused its discretion in failing to impose a sentence below

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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the statutory minimum. *See United States v. Harper*, 527 F.3d 396, 411 (5th Cir. 2008); *see also Howard v. King*, 707 F.2d 215, 219-20 (5th Cir. 1983) (per curiam). Leave to proceed IFP is DENIED, and the appeal is DISMISSED. *See* 5TH CIR. R. 42.2.